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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/140,531	03/26/98	WELLS	3717-4

020575

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PM11/0316

EXAMINER  
VANAMAN, F

ART UNIT	PAPER NUMBER
3611	2

DATE MAILED: 03/16/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/140,831

Applicant(s)  
Wells

Examiner  
Frank Vanaman

Group Art Unit  
3611



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-7 is/are allowed.

☒ Claim(s) 8-10 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **Reissue Application - Form of Specification and Claims**

1. The format of the claims is not in compliance with the requirements of 37 CFR 1.173, which states:

#### **§ 1.173 Specification.**

The specification of the reissue application must include the entire specification and claims of the patent, with the matter to be omitted by reissue enclosed in square brackets; and *any additions made by the reissue must be underlined*, so that the old and the new specifications and claims may be readily compared. Claims should not be renumbered and the numbering of claims added by reissue should follow the number of the highest numbered patent claim. No new matter shall be introduced into the specification.

Specifically, the newly added claims 8, 9, and 10 are not underlined.

2. Applicant is reminded of the continuing obligation under 37 CFR 1.56 to timely apprise the Office of any litigation information, or other prior or concurrent proceeding, involving Patent No. 5,549,330, which is material to patentability of the claims under consideration in this reissue application. This obligation rests with each individual associated with the filing and prosecution of this application for reissue. See MPEP §§ 1404, 1442.01 and 1442.04.

### **Information Disclosure Statement**

3. One reference cited on applicant's information disclosure has been indicated as "not considered", namely DT 26 18 723 A1, as this reference is currently unavailable to the examiner. When this reference becomes available, it will be considered.

### **Drawings**

4. The drawings filed with the application papers have been reviewed by the Drafting Department and are not objected to.

### **Claim Rejections - 35 USC § 112**

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 8, lines 8 and 17, there is no clear antecedent basis for "the strap pin"; in claim 8, lines 12-14, it is not clear whether or not applicant is attempting to incorporate method steps (i.e., "inserting...", "engaging...", "moving..."); in claim 10, line 8, there is no clear antecedent basis for "the strap pin"; in claim 10, lines 11-12 and 14-15, it is not clear whether or not applicant is attempting to incorporate method steps in an apparatus claims (i.e., "inserting", "engaging", "disengaging").

#### **Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittstock (DE 4,103,235 A1). Wittstock teaches a ski pole grip (10) having front, rear and lateral sides (fig. 1), the grip shaped to accommodate a user's hand; a pin (24) connectable to a user's hand (not shown) by a strap (22), an attachment member (20) in the grip which receives and engages the pin (locking condition in fig. 2), an elongated channel (16, 18) in the grip (at 14) which extends horizontally though the front and rear of the grip above the zone which accommodates the user's hand, the pin being insertable in a horizontal direction, a button (30) positioned on the ski pole grip as broadly claimed, when the pin is in a locked position, which is mechanically coupled to the attachment member (20) by a supporting portion (26) and a tooth (28), wherein depression of the button allows the pin to be released from the grip while a user's hand continues to engage the

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grip. The reference of Wittstock fails to explicitly teach a user's glove. It is extremely well known, however, particularly in climates which are conducive to skiing, that a skier may wear gloves, and as such it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a user's glove for the purpose of protecting the user's hands from cold temperatures, and the engagement of the strap and glove would be considered to form a connection between the user's hand, the glove, the strap and the pin, based on the breadth of the recitation.

#### **Allowable Subject Matter**

9. Claims 1-7 are allowed.
10. Claim 8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.
11. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
12. In view of the allowability or allowable subject matter of claims 1-9 noted above, applicant is reminded that the original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

#### **Conclusion**

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schweinsberg (US 3,982,747), Rischert et al. (US 4,005,872), Bunyea (US 4,731,766), and Emery (FR 2,270,913) teach ski pole structures and actuators of pertinence.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry; informal or draft communications may be faxed to the same number but should be clearly labeled "PROPOSED" or "DRAFT")

**FRANK B. VANAMAN**

**Patent Examiner**

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Frank Vanaman

March 9, 1999

*FBV*  
*3/9/99*

*J. J. Swann*  
**J. J. SWANN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**